

# MEMO ENDORSED

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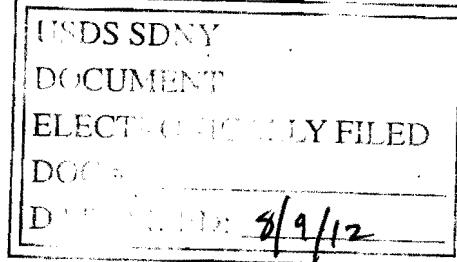
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August 9, 2012

**By Facsimile (212) 805-7930**

The Honorable James Francis  
 United States Magistrate Judge  
 United States Courthouse  
 Southern District of New York  
 500 Pearl Street  
 New York, NY 10007



Re: *Nunez, et al., v. City of New York, et al.*, 11 Civ. 5845 (LTS) (JCF)

Dear Judge Francis:

This office, together with the Legal Aid Society Prisoners' Rights Project and Ropes & Gray LLP, are counsel for plaintiffs in the above-captioned matter. In their Amended Complaint filed on May 24, 2012, plaintiffs allege claims against fifty-three defendants, including defendants City of New York and a number of individual supervisory officials and individual officers within the New York City Department of Correction ("DOC"). Plaintiffs allege that defendants are inflicting, permitting, and encouraging the unconstitutional and excessive use of force against inmates in DOC jails. Plaintiffs' time to serve the Amended Complaint under Fed. R. Civ. P. 4(m) expires on August 10, 2012.<sup>1</sup> We write to seek an extension of time until September 4, 2012 to serve four defendants ("Jane" Jones, "John" Gregg, Santiago, Buttons) named in the Amended Complaint. Counsel for defendants the City of New York and Commissioner Dora Schriro consents to this request. No other defendants have yet appeared in the case.

An extension of time pursuant to Fed. R. Civ. P. 4(m) is warranted here. Plaintiffs have been diligent in their efforts to effect timely service on all defendants. To date, plaintiffs have served forty-nine (49) of the fifty-three (53) defendants identified by name in the

<sup>1</sup> This is Plaintiffs' second request for an extension of time to serve. In the first request, made on May 21, 2012, Plaintiffs' counsel requested a 60-day extension of time *nunc pro tunc* to serve defendants in the Amended Complaint on the basis that Plaintiff Nunez had initiated the case *pro se* and had only recently obtained counsel. Judge Swain granted the extension of time *nunc pro tunc* on June 11, 2012.

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Amended Complaint, many of whom have transferred among DOC facilities on Rikers Island and elsewhere since the incidents complained of in the Amended Complaint. Since filing the Amended Complaint, plaintiffs' counsel has repeatedly conferred with DOC's legal department and the City's counsel to determine all defendants' current work locations and confirm correct name spellings and shield numbers. Despite this cooperation, two of the remaining un-served defendants are ones for whom further investigation is needed in order to confirm the correct spellings of their names and current work locations, so that service may be completed. The other two remaining un-served defendants are ones that counsel recently learned of sufficient identifying information to serve them and are in the midst of completing service. The extension of time until September 4, 2012 would provide counsel with time to review DOC documentation, identify defendants, and serve them.

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Thank you for your consideration of this request.

Respectfully submitted,

Vasudha Talla

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William I. Sussman  
Joseph G. Cleemann  
Ropes & Gray LLP  
*Counsel for Plaintiffs Rodney Brye, Shameik Smallwood, and Travis Woods, in their capacities as potential class representatives*

cc: All counsel (by facsimile)

8/9/12 Application granted.  
so ORDERED.  
James C. Frank IV  
VSM/T